

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: COLUMBIA UNIVERSITY  
PATENT LITIGATION

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MDL NO. 1592

ORDER

WOLF, D.J.

May 17, 2005

The court has considered the parties' responses to the November 5, 2004 Order and it is hereby ORDERED that:

1. The parties shall confer and, by June 10, 2005, file proposed Orders in each case dismissing each of the claims that they agree should be dismissed pursuant to the November 5, 2004 Order.<sup>1</sup>

2. By June 10, 2005, the relevant parties shall confer and attempt to narrow the issues in dispute and determine if their case can be settled. If any parties have not resolved an issue or a case, they shall then file or update their memoranda to address:<sup>2</sup>

- a) Whether Amgen Inc.'s ("Amgen") first and seventh claims survive the November 5, 2004 Order because they allege that the Trustees of Columbia University in the City of

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<sup>1</sup>Pursuant to the stipulation of the parties, on May 16, 2005 the court dismissed Johnson & Johnson v. The Trustees of Columbia University in the City of New York, C.A. 04-10743.

<sup>2</sup>The parties are hereby advised that the court may impose sanctions pursuant to Federal Rule of Civil Procedure 11 if there is not a proper basis for any position asserted.

New York ("Columbia") is seeking royalties on the basis of the original Axel patents.

- b) Whether Biogen Idec MA Inc.'s ("Biogen") first claim survives the November 5, 2004 Order because it alleges that Columbia improperly terminated its license.
- c) Whether Wyeth's fourth, fifth, and sixth claims survive the November 5, 2005 Order because they state causes of action for recovery of past sums.
- d) Whether Genentech Institute LLC's ("Genentech") fifth claim, which the parties agree survives the November 5, 2004 Order, should be remanded.
- e) Whether Amgen and Wyeth should be granted leave to amend their complaints.
- f) Whether Amgen and Biogen should be allowed to consolidate their new complaints with whatever portion of their MDL cases survive the November 5, 2004 Order.
- g) Whether, if part of Amgen's case remains, either because it was not resolved by the November 5, 2005 Order, or because the court has granted Amgen leave to amend its complaint, it should be remanded.

3. Any responses to the foregoing submissions shall be filed by June 20, 2005.

4. A hearing on all pending motions shall commence on August 9, 2005, at 9:30 a.m., and continue from day to day until concluded.

/s/ Mark L. Wolf  
UNITED STATES DISTRICT JUDGE